

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 4533 of 2006

in

FIRST APPEAL(st) NO. 24413 OF 2006

M\s. Standard Plastics

...Applicant

V/s.

M\s. Quality Brush Company

...Respondent

Ms. Vasanti M. Banger for the Applicant

CORAM:- Anoop V. Mohta, J

DATED:- 10th September, 2007.

P.C.

. This is an application for condonation of delay
filed in the First Appeal. Undisputed position on
record is that by order dated 26-9-2006 in appeal from
order no. 6 of 2006 in notice of motion no. 1543 of
2005 in S.C. Suit No. 4237 of 1983, this Court has
observed as under:

"In this view of the matter, the only remedy
for the appellant was to file an appeal against
the decree and he could not have applied for
restoration of the suit under Order 9 Rule 13
of the Code of Civil Procedure. The decision
rendered by the trial Court is thus in

accordance with law and is hereby confirmed."

2. Based upon that the appellant has preferred this appeal along with Civil Application for condonation of delay within limitation i.e. on 7-10-2006. Therefore, without going into the merits of the matter and keeping all points open, the present application is allowed in terms of prayer clause (a). The appeal be placed for admission subject to registration.

3. Civil Application is disposed off accordingly.

(Anoop V. Mohta,J)